

ID: CCA\_2009042812071122

Number: **200922037**

Release Date: 5/29/2009

Office:

UILC: 6091.00-00, 6091.01-04

---

**From:**

**Sent:** Tuesday, April 28, 2009 12:07:12 PM

**To:**

**Cc:**

**Subject:** CAPER that addresses delivery of returns to TAS

Hi Below is the CAPER that I mentioned this morning that addresses why TAS employees should not be encouraging taxpayers to mail or hand-deliver returns directly to TAS. The CAPER is somewhat outdated, which is why you won't find it on the TAS website. It was issued prior to TAS's authorities being modified on 10/1/07, so there are incorrect references to Delegation Order 267 (which became obsolete with the publication of Delegation Order 13-2 (Rev. 1)). In addition, question 2 references TAS's ability to process claims/amended returns, an authority TAS relinquished on 10/1/07. Nonetheless, the principles set forth in the CAPER about why TAS employees should not be soliciting returns is still correct. In addition, the FAQs on the TAS website contain a Q&A about TAS employees processing amended returns under Delegation Order 13-2 (Rev. 1) and concludes: (1) a return mailed to TAS is not filed with the IRS until the appropriate service center receives it, and (2) TAS employees have not been delegated the responsibility to accept hand-carried returns.



If you or the TAGM have questions, please do not hesitate to call me.

Thanks.

[OARs for Claims and Amended Returns under DA267](#)

**OARs for Claims and Amended Returns under Delegation Order 267**

**CAPER 10184**

**5/12/2006**

## Background

1. Under Delegation Order 267 and IRM 21.5.3 (General Claims Procedures), TAS has the authority to process certain claims and amended returns without the need for an Operations Assistance Request (OAR).
2. TAS often receives amended returns or claims in the normal course of case processing.
3. When inputting any adjustments under IDRS command code REQ54 there are fields that require inputs such as amended claim date, Refund Statute Claim date.

### Question 1

Is a return considered filed with the IRS when a taxpayer mails or hand delivers the return to the Taxpayer Advocate Service (TAS)?

### Answer 1

The date a return is considered filed with the IRS has many significant consequences. For example, the date the return is filed starts the general 3-year period in which the IRS has to assess tax for that tax year. Similarly, the date the return is filed starts the general 3-year period in which a taxpayer has to claim a credit or refund of tax for that tax year. Thus, it is important for TAS employees to understand the rules for determining when a return is “filed.”

*For purposes of determining whether a return is filed, TAS should be viewed as no different than any other function of the IRS. Thus, the rules that apply for other IRS functions in determining whether a return is considered filed are applicable to returns filed with TAS. Section 6091 of the Internal Revenue Code and the corresponding Treasury regulations provide guidance on the proper place to file tax returns and provide that individual taxpayers generally have the following options for places to file their income tax returns:*

- (1) With any person assigned the responsibility to receive returns in the internal revenue district where that individual taxpayer legally resides or has a principal place of business;
- (2) At a service center serving the district referred to in (1);
- (3) If the instructions to the return require filing with a service center, with the applicable service center; or

- (4) Hand carried to any person assigned the responsibility to receive hand-carried returns in the local IRS office serving the individual taxpayer's legal residence or principal place of business.

For an individual taxpayer, the instructions to forms in the 1040 series specify the service centers where taxpayers must file. Consequently, an individual income tax return mailed to TAS is not considered filed with the IRS until the appropriate IRS service center receives it.

As for hand carrying a return to a TAS employee, at the present time, TAS employees have not been delegated the responsibility to receive hand-carried returns and transmit the returns to the IRS for filing. TAS employees are treated no different in this regard than any other employees of the IRS who do not have the authority to accept returns. Consequently, a return hand delivered to a TAS employee is not considered filed with the IRS until the appropriate IRS service center receives it.

## **Question 2**

If TAS wishes to use its authority to process claims and amended returns under Delegation Order 267, TAS would first need to send them to the proper location for filing. If a TAS office is not in the immediate vicinity of employees who are authorized to accept returns and other documents and stamp them as filed, does the TAS office have to OAR the documents to request both an acceptance of the filing, and the processing of the claim, amended return, or other document? IDRS adjustments often require dates for filing, refund statute claim dates, etc. If we have to submit an OAR, do we run the risk of many OARs being rejected back using "TAS has the authority" as the reason for the rejection?

## **Answer 2**

Whether Case Advocates (CAs) must use the OAR process to forward returns, claims, or any document that must be filed to the proper filing location will depend on the facts and circumstances of each case.

### **Returns or Claims Received by Mail**

Upon receiving a return or claim by mail, the CA must stamp TAS's "Received" date on the document and then forward it to the proper filing location. If TAS needs the IRS to expedite the processing of the return or claim, the CA must use an OAR. Similarly, if the taxpayer's case is open in another function, TAS has no ability to make any adjustments on the taxpayer's account (see Delegation Order 267), so the CA must use an OAR to get the IRS to process the document and make the necessary adjustments. Filing the return with the proper location is not the end of the process if the CA must take further actions to close the case. The CA must monitor the case to ensure proper posting, then proceed, within TAS's authority, with any of the actions needed to resolve and close the case. It is important that the CA work closely with the liaison to ensure all

requested actions are completed. If the OAR rejects for any reason, the CA must follow the procedures outlined in the Service Level Agreements, which include managerial involvement, to ensure resolution of the problem. Fear that an OAR may be rejected is never a good reason for not following procedures.

If TAS is simply sending the return or claim to the proper filing location and does not need the document processed expeditiously or does not need the document in order to resolve the taxpayer's inquiry, the CA should not use an OAR; rather, the CA should use Form 3210, Document Transmittal, to get the document to the proper location.

### *Hand Carried Returns or Claims*

If a taxpayer hand carries a return to a TAS office, the CA should explain to the taxpayer that TAS employees are not authorized to accept returns for filing. The CA should provide the taxpayer with the correct address for mailing the return or direct the taxpayer to a nearby or co-located Taxpayer Assistance Center. The CA should encourage the taxpayer to file the return directly with the appropriate IRS office.

If the taxpayer refuses to file the return directly with the appropriate IRS office and the CA has no choice but to accept the return, then the CA must stamp TAS's "Received" date on the document and then forward it to the proper filing location. Whether the CA should transmit the return using an OAR or Form 3210 will depend on whether the filing of the return is related to the issue for which the taxpayer sought TAS's assistance. If TAS needs the IRS to expedite the processing of the return or claim, the CA must use an OAR. Similarly, if the taxpayer's case is open in another function, TAS has no ability to make any adjustments on the taxpayer's account (see Delegation Order 267), so the CA must use an OAR to get the IRS to process the document and make the necessary adjustments. If TAS is simply sending the return to the proper filing location and does not need the document processed expeditiously or does not need the document in order to resolve the taxpayer's inquiry, the CA should use Form 3210 to get the document to the proper location.